		(Original Signature of Member)
Omer CONCIDENCE	 _	

118TH CONGRESS 1ST SESSION

H.R.

To impose sanctions with respect to trafficking of illicit fentanyl and its precursors by transnational criminal organizations, including cartels, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr.	McCaul introduced	the	following	bill;	which	was	referred	to	the
	Committee on								

A BILL

To impose sanctions with respect to trafficking of illicit fentanyl and its precursors by transnational criminal organizations, including cartels, and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
- 4 (a) SHORT TITLE.—This Act may be cited as the
- 5 "Fentanyl Eradication and Narcotics Deterrence Off
- 6 Fentanyl Act" or the "FEND Off Fentanyl Act".
- 7 (b) Table of Contents.—The table of contents for
- 8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Sense of Congress.
- Sec. 3. Definitions.

TITLE I—SANCTIONS MATTERS

Subtitle A—Sanctions in Response to National Emergency Relating to Fentanyl Trafficking

- Sec. 101. Finding; policy.
- Sec. 102. Use of national emergency authorities; reporting.
- Sec. 103. Codification of Executive order imposing sanctions with respect to foreign persons involved in global illicit drug trade.
- Sec. 104. Imposition of sanctions with respect to fentanyl trafficking by transnational criminal organizations.
- Sec. 105. Penalties; waivers; exceptions.
- Sec. 106. Treatment of blocked property of transnational criminal organizations.

Subtitle B—Other Matters

- Sec. 111. Eight-year statute of limitations for violations of sanctions.
- Sec. 112. Repeal of prohibition on imposition of sanctions with respect to importation of goods under Fentanyl Sanctions Act.
- Sec. 113. Classified report and briefing on staffing of Office of Foreign Assets Control.
- Sec. 114. Report on drug transportation routes and use of vessels with mislabeled cargo.

TITLE II—ANTI-MONEY LAUNDERING MATTERS

- Sec. 201. Designation of illicit fentanyl transactions of sanctioned persons as of primary money laundering concern.
- Sec. 202. Treatment of transnational criminal organizations in suspicious transactions reports of the Financial Crimes Enforcement Network.
- Sec. 203. Report on trade-based money laundering in trade with Mexico, the People's Republic of China, and Burma.

1 SEC. 2. SENSE OF CONGRESS.

- 2 It is the sense of Congress that—
- 3 (1) the proliferation of fentanyl is causing an
- 4 unprecedented surge in overdose deaths in the
- 5 United States, fracturing families and communities,
- 6 and necessitating a comprehensive policy response to
- 7 combat its lethal flow and to mitigate the drug's
- 8 devastating consequences;

1	(2) the trafficking of fentanyl into the United
2	States is a national security threat that has killed
3	hundreds of thousands of United States citizens;
4	(3) transnational criminal organizations, includ-
5	ing cartels primarily based in Mexico, are the main
6	purveyors of fentanyl into the United States and
7	must be held accountable;
8	(4) precursor chemicals sourced from the Peo-
9	ple's Republic of China are—
10	(A) shipped from the People's Republic of
11	China by legitimate and illegitimate means;
12	(B) transformed through various synthetic
13	processes to produce different forms of
14	fentanyl; and
15	(C) crucial to the production of illicit
16	fentanyl by transnational criminal organiza-
17	tions, contributing to the ongoing opioid crisis;
18	(5) the United States Government must remain
19	vigilant to address all new forms of fentanyl precur-
20	sors and drugs used in combination with fentanyl,
21	such as Xylazine, which attribute to overdose deaths
22	of people in the United States;
23	(6) to increase the cost of fentanyl trafficking,
24	the United States Government should work collabo-
25	ratively across agencies and should surge analytic

1	capability to impose sanctions and other remedies
2	with respect to transnational criminal organizations
3	(including cartels), including foreign nationals who
4	facilitate the trade in illicit fentanyl and its precur-
5	sors from the People's Republic of China and such
6	organizations; and
7	(7) the Department of the Treasury should
8	focus on fentanyl trafficking and its facilitators as
9	one of the top national security priorities for the De-
10	partment.
11	SEC. 3. DEFINITIONS.
12	In this Act:
13	(1) Appropriate congressional commit-
14	TEES.—The term "appropriate congressional com-
15	mittees" means—
16	(A) the Committee on Banking, Housing,
17	and Urban Affairs of the Senate; and
18	(B) the Committee on Foreign Affairs and
19	the Committee on Financial Services of the
20	House of Representatives.
21	(2) Foreign person.—The term "foreign per-
22	son''—
23	(A) means—
24	(i) any citizen or national of a foreign
25	country; or

1	(ii) any entity not organized under the
2	laws of the United States or a jurisdiction
3	within the United States; and
4	(B) does not include the government of a
5	foreign country.
6	(3) Knowingly.—The term "knowingly", with
7	respect to conduct, a circumstance, or a result,
8	means that a person has actual knowledge, or should
9	have known, of the conduct, the circumstance, or the
10	result.
11	(4) Trafficking.—The term "trafficking",
12	with respect to fentanyl, fentanyl precursors, or
13	other related opioids, has the meaning given the
14	term "opioid trafficking" in section 7203 of the
15	Fentanyl Sanctions Act (21 U.S.C. 2302).
16	(5) Transnational criminal organiza-
17	TION.—The term "transnational criminal organiza-
18	tion" includes—
19	(A) any organization designated as a sig-
20	nificant transnational criminal organization
21	under part 590 of title 31, Code of Federal
22	Regulations;
23	(B) any of the organizations known as—
24	(i) the Sinaloa Cartel;

1	(ii) the Jalisco New Generation Car-
2	tel;
3	(iii) the Gulf Cartel;
4	(iv) the Los Zetas Cartel;
5	(v) the Juarez Cartel;
6	(vi) the Tijuana Cartel;
7	(vii) the Beltran-Leyva Cartel;
8	(viii) La Familia Michoacana, also
9	known as the Knights Templar Cartel; or
10	(ix) La Nueva Familia Michoacan;
11	(C) any other organization that the Presi-
12	dent determines is a transnational criminal or-
13	ganization; or
14	(D) any successor organization to an orga-
15	nization described in subparagraph (B) or as
16	otherwise determined by the President.
17	(6) United states person.—The term
18	"United States person" means—
19	(A) a United States citizen or an alien law-
20	fully admitted for permanent residence to the
21	United States;
22	(B) an entity organized under the laws of
23	the United States or of any jurisdiction within
24	the United States, including a foreign branch of
25	such an entity; or

1	(C) any person in the United States.
2	TITLE I—SANCTIONS MATTERS
3	Subtitle A—Sanctions in Response
4	to National Emergency Relating
5	to Fentanyl Trafficking
6	SEC. 101. FINDING; POLICY.
7	(a) Finding.—Congress finds that international
8	trafficking of fentanyl, fentanyl precursors, or other re-
9	lated opioids constitutes an unusual and extraordinary
10	threat to the national security, foreign policy, and econ-
11	omy of the United States, and is a national emergency.
12	(b) Policy.—It shall be the policy of the United
13	States to apply economic and other financial sanctions to
14	those who engage in the international trafficking of
15	fentanyl, fentanyl precursors, or other related opioids to
16	protect the national security, foreign policy, and economy
17	of the United States.
18	SEC. 102. USE OF NATIONAL EMERGENCY AUTHORITIES;
19	REPORTING.
20	(a) In General.—The President may exercise all
21	authorities provided under sections 203 and 205 of the
22	International Emergency Economic Powers Act (50
23	U.S.C. 1702 and 1704) to carry out this subtitle.
24	(b) Report Required.—

1	(1) IN GENERAL.—Not later than 180 days
2	after the date of the enactment of this Act, and an-
3	nually thereafter, the President shall submit to the
4	appropriate congressional committees a report on ac-
5	tions taken by the executive branch pursuant to this
6	subtitle and any national emergency declared with
7	respect to the trafficking of fentanyl, including—
8	(A) the issuance of any new or revised reg-
9	ulations, policies, or guidance;
10	(B) the imposition of sanctions;
11	(C) the collection of relevant information
12	from outside parties;
13	(D) the approval or denial of licenses by
14	the Office of Foreign Assets Control;
15	(E) the initiation of enforcement cases; or
16	(F) the implementation of mitigation pro-
17	cedures.
18	(2) Form of Report.—Each report required
19	by paragraph (1) shall be submitted in unclassified
20	form, but may include the matters required by sub-
21	paragraphs (C), (D), (E), and (F) of that paragraph
22.	in a classified annex

1	SEC. 103. CODIFICATION OF EXECUTIVE ORDER IMPOSING
2	SANCTIONS WITH RESPECT TO FOREIGN PER-
3	SONS INVOLVED IN GLOBAL ILLICIT DRUG
4	TRADE.
5	United States sanctions provided for in Executive
6	Order 14059 (50 U.S.C. 1701 note; relating to imposing
7	sanctions on foreign persons involved in the global illicit
8	drug trade), and any amendments to or directives issued
9	pursuant to such Executive orders before the date of the
10	enactment of this Act, shall remain in effect.
11	SEC. 104. IMPOSITION OF SANCTIONS WITH RESPECT TO
12	FENTANYL TRAFFICKING BY
13	TRANSNATIONAL CRIMINAL ORGANIZATIONS.
14	(a) In General.—The President shall impose the
15	sanctions described in subsection (b) with respect to any
16	foreign person the President determines—
17	(1) is knowingly involved in the significant traf-
18	ficking of fentanyl, fentanyl precursors, or other re-
19	lated opioids by a transnational criminal organiza-
20	tion; or
21	(2) otherwise is knowingly involved in signifi-
22	cant activities of a transnational criminal organiza-
23	tion relating to the trafficking of fentanyl, fentanyl
24	precursors, or other related opioids.
25	(b) Sanctions Described.—The President may,
	(b) MINOTIONS DESCRIBED. The Tresident may,

- 1 ers Act (50 U.S.C. 1701 et seq.), block and prohibit all
- 2 transactions in property and interests in property of a for-
- 3 eign person described in subsection (a) if such property
- 4 and interests in property are in the United States, come
- 5 within the United States, or are or come within the posses-
- 6 sion or control of a United States person.
- 7 (c) Report Required.—Not later than 180 days
- 8 after the date of the enactment of this Act, and annually
- 9 thereafter, the President shall submit to the appropriate
- 10 congressional committees a report on actions taken by the
- 11 executive branch with respect to the foreign persons iden-
- 12 tified under subsection (a).
- 13 SEC. 105. PENALTIES; WAIVERS; EXCEPTIONS.
- 14 (a) Penalties.—A person that violates, attempts to
- 15 violate, conspires to violate, or causes a violation of this
- 16 subtitle or any regulation, license, or order issued to carry
- 17 out this subtitle shall be subject to the penalties set forth
- 18 in subsections (b) and (c) of section 206 of the Inter-
- 19 national Emergency Economic Powers Act (50 U.S.C.
- 20 1705) to the same extent as a person that commits an
- 21 unlawful act described in subsection (a) of that section.
- (b) Waiver Authority.—
- 23 (1) In General.—The President may waive
- 24 the imposition of sanctions under this subtitle if the

1	President determines, and reports to the appropriate
2	congressional committees, that—
3	(A) the waiver is needed for humanitarian
4	purposes; or
5	(B) the national emergency described in
6	section 101 has ended.
7	(2) National Security Waiver.—The Presi-
8	dent may waive the application of sanctions under
9	this subtitle with respect to a foreign person if the
10	President determines that the waiver is in the na-
11	tional security interest of the United States.
12	(e) Exceptions.—
13	(1) Exception for intelligence activi-
14	TIES.—This subtitle shall not apply with respect to
15	activities subject to the reporting requirements
16	under title V of the National Security Act of 1947
17	(50 U.S.C. 3091 et seq.) or any authorized intel-
18	ligence activities of the United States.
19	(2) Exception for compliance with inter-
20	NATIONAL OBLIGATIONS AND LAW ENFORCEMENT
21	ACTIVITIES.—Sanctions under section 102(c) shall
22	not apply with respect to an alien if admitting or pa-
23	roling the alien into the United States is nec-
24	essary—

1	(A) to permit the United States to comply
2	with the Agreement regarding the Head-
3	quarters of the United Nations, signed at Lake
4	Success on June 26, 1947, and entered into
5	force November 21, 1947, between the United
6	Nations and the United States, or other appli-
7	cable international obligations of the United
8	States; or
9	(B) to carry out or assist law enforcement
10	activity of the United States.
11	(3) Exception to comply with usmca.—
12	Sanctions under this subtitle shall not apply in a
13	case in which such sanctions would conflict with pro-
14	visions of the USMCA (as defined in section 3 of the
15	United States-Mexico-Canada Agreement Implemen-
16	tation Act (19 U.S.C. 4502)).
17	(4) Humanitarian exemption.—The Presi-
18	dent may not impose sanctions under this subtitle
19	with respect to any person for conducting or facili-
20	tating a transaction for the sale of agricultural com-
21	modities, food, medicine, or medical devices or for
22	the provision of humanitarian assistance.

1	SEC. 106. TREATMENT OF BLOCKED PROPERTY OF
2	TRANSNATIONAL CRIMINAL ORGANIZATIONS
3	(a) Transfer of Blocked Property to For
4	FEITURE FUNDS.—
5	(1) In general.—The President may transfe
6	the proceeds of any covered forfeited property to th
7	Department of the Treasury Forfeiture Fund estab
8	lished under section 9705 of title 31, United State
9	Code, or the Department of Justice Assets For
10	feiture Fund established under section 524(c) of titl
11	28, United States Code.
12	(2) Report required.—Not later than 186
13	days after the date of the enactment of this Act, and
14	every 180 days thereafter, the President shall sub
15	mit to the appropriate congressional committees
16	report on any transfers made under paragraph (1
17	during the 180-day period preceding submission of
18	the report.
19	(3) Covered forfeited property de
20	FINED.—In this subsection, the term "covered for
21	feited property" means property—
22	(A) seized by the Department of Justic
23	under chapter 46 or section 1963 of title 18
24	United States Code; and

1	(B) that belonged to or was possessed by
2	a transnational criminal organization subject to
3	sanctions under—
4	(i) this subtitle;
5	(ii) the Fentanyl Sanctions Act (21
6	U.S.C. 2301 et seq.); or
7	(iii) Executive Order 14059 (50
8	U.S.C. 1701 note; relating to imposing
9	sanctions on foreign persons involved in
10	the global illicit drug trade).
11	(b) Blocked Assets Under Terrorism Risk In-
12	SURANCE ACT OF 2002.—Nothing in this subtitle affects
13	the treatment of blocked assets of a terrorist party de-
14	scribed in subsection (a) of section 201 of the Terrorism
15	Risk Insurance Act of 2002 (28 U.S.C. 1610 note).
16	Subtitle B—Other Matters
17	SEC. 111. EIGHT-YEAR STATUTE OF LIMITATIONS FOR VIO
18	LATIONS OF SANCTIONS.
19	(a) International Emergency Economic Pow-
20	ERS ACT.—Section 206 of the International Emergency
21	Economic Powers Act (50 U.S.C. 1705) is amended by
22	adding at the end the following:
23	"(d) Statute of Limitations.—
24	"(1) Time for commencing proceedings.—

1	"(A) In General.—An action, suit, or
2	proceeding for the enforcement of any civil fine,
3	penalty, or forfeiture, pecuniary or otherwise,
4	under this section shall not be entertained un-
5	less commenced within eight years after the lat-
6	est date of the violation upon which the civil
7	fine, penalty, or forfeiture is based.
8	"(B) Commencement.—For purposes of
9	this paragraph, the commencement of an ac-
10	tion, suit, or proceeding includes the issuance of
11	a pre-penalty notice or finding of violation.
12	"(2) Time for indictment.—No person shall
13	be prosecuted, tried, or punished for any offense
14	under subsection (e) unless the indictment is found
15	or the information is instituted within eight years
16	after the latest date of the violation upon which the
17	indictment or information is based.".
18	(b) Trading With the Enemy Act.—Section 16
19	of the Trading with the Enemy Act (50 U.S.C. 4315) is
20	amended by adding at the end the following:
21	"(d) Statute of Limitations.—
22	"(1) Time for commencing proceedings.—
23	"(A) In General.—An action, suit, or
24	proceeding for the enforcement of any civil fine,
25	penalty, or forfeiture, pecuniary or otherwise.

1	under this section shall not be entertained un-
2	less commenced within eight years after the lat-
3	est date of the violation upon which the civil
4	fine, penalty, or forfeiture is based.
5	"(B) Commencement.—For purposes of
6	this paragraph, the commencement of an ac-
7	tion, suit, or proceeding includes the issuance of
8	a pre-penalty notice or finding of violation.
9	"(2) Time for indictment.—No person shall
10	be prosecuted, tried, or punished for any offense
11	under subsection (a) unless the indictment is found
12	or the information is instituted within eight years
13	after the latest date of the violation upon which the
14	indictment or information is based.".
15	SEC. 112. REPEAL OF PROHIBITION ON IMPOSITION OF
16	SANCTIONS WITH RESPECT TO IMPORTATION
17	OF GOODS UNDER FENTANYL SANCTIONS
18	ACT.
19	Section 7235 of the Fentanyl Sanctions Act (21
20	U.S.C. 2335) is repealed.
21	SEC. 113. CLASSIFIED REPORT AND BRIEFING ON STAFF-
22	ING OF OFFICE OF FOREIGN ASSETS CON-
23	TROL.
24	Not later than 180 days after the date of the enact-
25	ment of this Act, the Director of the Office of Foreign

1	Assets Control shall provide to the appropriate congres-
2	sional committees a classified report and briefing on the
3	staffing of the Office of Foreign Assets Control,
4	disaggregated by staffing dedicated to each sanctions pro-
5	gram and each country or issue.
6	SEC. 114. REPORT ON DRUG TRANSPORTATION ROUTES
7	AND USE OF VESSELS WITH MISLABELED
8	CARGO.
9	Not later than 180 days after the date of the enact-
10	ment of this Act, the Secretary of the Treasury, in con-
11	junction with the heads of other relevant Federal agencies,
12	shall provide to the appropriate congressional committees
13	a classified report and briefing on efforts to target drug
14	transportation routes and modalities, including an assess-
15	ment of the prevalence of false cargo labeling and ship-
16	ment of precursor chemicals without accurate tracking of
17	the customers purchasing the chemicals.
18	TITLE II—ANTI-MONEY
19	LAUNDERING MATTERS
20	SEC. 201. DESIGNATION OF ILLICIT FENTANYL TRANS-
21	ACTIONS OF SANCTIONED PERSONS AS OF
22	PRIMARY MONEY LAUNDERING CONCERN.
23	Subtitle A of the Fentanyl Sanctions Act (21 U.S.C.
24	2311 et seq.) is amended by inserting after section 7213
25	the following:

1	"SEC. 7213A. DESIGNATION OF TRANSACTIONS OF SANC-
2	TIONED PERSONS AS OF PRIMARY MONEY
3	LAUNDERING CONCERN.
4	"(a) In General.—If the Secretary of the Treasury
5	determines that reasonable grounds exist for concluding
6	that one or more classes of transactions within, or involv-
7	ing, a jurisdiction outside of the United States is of pri-
8	mary money laundering concern in connection with illicit
9	opioid trafficking, the Secretary of the Treasury may, by
10	order, regulation, or otherwise as permitted by law—
11	"(1) require domestic financial institutions and
12	domestic financial agencies to take 1 or more of the
13	special measures provided for in section $9714(a)(1)$
14	of the National Defense Authorization Act for Fiscal
15	Year 2021 (Public Law 116–283; 31 U.S.C. 5318A
16	note); and
17	"(2) prohibit, or impose conditions upon, cer-
18	tain transmittals of funds (to be defined by the Sec-
19	retary) by any domestic financial institution or do-
20	mestic financial agency, if such transmittal of funds
21	involves any such class of transactions.
22	"(b) Classified Information.—In any judicial re-
23	view of a finding of the existence of a primary money laun-
24	dering concern, or of the requirement for 1 or more special
25	measures with respect to a primary money laundering con-
26	cern made under this section, if the designation or imposi-

- 1 tion, or both, were based on classified information (as de-
- 2 fined in section 1(a) of the Classified Information Proce-
- 3 dures Act (18 U.S.C. App.)), such information may be
- 4 submitted by the Secretary to the reviewing court exparte
- 5 and in camera. This subsection does not confer or imply
- 6 any right to judicial review of any finding made or any
- 7 requirement imposed under this section.
- 8 "(c) Availability of Information.—The exemp-
- 9 tions from, and prohibitions on, search and disclosure re-
- 10 ferred to in section 9714(c) of the National Defense Au-
- 11 thorization Act for Fiscal Year 2021 (Public Law 116–
- 12 283; 31 U.S.C. 5318A note) shall apply to any report or
- 13 record of report filed pursuant to a requirement imposed
- 14 under subsection (a). For purposes of section 552 of title
- 15 5, United States Code, this section shall be considered a
- 16 statute described in subsection (b)(3)(B) of that section.
- 17 "(d) Penalties.—The penalties referred to in sec-
- 18 tion 9714(d) of the National Defense Authorization Act
- 19 for Fiscal Year 2021 (Public Law 116–283; 31 U.S.C.
- 20 5318A note) shall apply to violations of any order, regula-
- 21 tion, special measure, or other requirement imposed under
- 22 subsection (a), in the same manner and to the same extent
- 23 as described in such section 9714(d).
- 24 "(e) Injunctions.—The Secretary of the Treasury
- 25 may bring a civil action to enjoin a violation of any order,

- 1 regulation, special measure, or other requirement imposed
- 2 under subsection (a) in the same manner and to the same
- 3 extent as described in section 9714(e) of the National De-
- 4 fense Authorization Act for Fiscal Year 2021 (Public Law
- 5 116–283; 31 U.S.C. 5318A note).
- 6 "(f) Definitions.—In this section, the terms 'do-
- 7 mestic financial agency', 'domestic financial institution',
- 8 'financial agency', and 'financial institution' have the
- 9 meanings given those terms as used in section 9714 of
- 10 the National Defense Authorization Act for Fiscal Year
- 11 2021 (Public Law 116–283; 31 U.S.C. 5318A note).".
- 12 SEC. 202. TREATMENT OF TRANSNATIONAL CRIMINAL OR-
- 13 GANIZATIONS IN SUSPICIOUS TRANSACTIONS
- 14 REPORTS OF THE FINANCIAL CRIMES EN-
- 15 FORCEMENT NETWORK.
- 16 (a) FILING INSTRUCTIONS.—Not later than 180 days
- 17 after the date of the enactment of this Act, the Director
- 18 of the Financial Crimes Enforcement Network shall issue
- 19 guidance or instructions to United States financial institu-
- 20 tions for filing reports on suspicious transactions required
- 21 by section 1010.320 of title 31, Code of Federal Regula-
- 22 tions, related to suspected fentanyl trafficking by
- 23 transnational criminal organizations.
- 24 (b) Prioritization of Reports Relating to
- 25 Fentanyl Trafficking or Transnational Criminal

Organizations.—The Director shall prioritize research into reports described in subsection (a) that indicate a 3 connection to trafficking of fentanyl or related synthetic 4 opioids or financing of suspected transnational criminal organizations. 5 6 SEC. 203. REPORT ON TRADE-BASED MONEY LAUNDERING 7 IN TRADE WITH MEXICO, THE PEOPLE'S RE-8 PUBLIC OF CHINA, AND BURMA. 9 Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall sub-10 11 mit to the appropriate congressional committees a report on trade-based money laundering originating in Mexico or 12 the People's Republic of China and involving Burma.